

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

TACHEENA T. MORGAN,

Plaintiff,

v.

6:20-CV-0740
(GTS/ATB)

MOHAWK VALLEY PSYCHIATRIC CENTER; and
NYS OFFICE OF MENTAL HEALTH,

Defendants.

APPEARANCES:

TACHEENA T. MORGAN
Plaintiff, *Pro Se*
448 Deborah Drive
Utica, New York 13502

GLENN T. SUDDABY, Chief United States District Judge

DECISION and ORDER

Currently before the Court, in this *pro se* employment discrimination action filed by Tacheena T. Morgan (“Plaintiff”) against Mohawk Valley Psychiatric Center and the New York State Office of Mental Health (“Defendants”) pursuant to 42 U.S.C. § 1983, is United States Magistrate Judge Andrew T. Baxter’s Report-Recommendation recommending, pursuant to 28 U.S.C. § 1915(e)(2)(B)(iii), that Plaintiff’s Complaint (Dkt. No. 1) be *sua sponte* dismissed with prejudice for failure to state a claim to the extent that it sues Defendants for damages under 42 U.S.C. § 1983, and that the remainder of her Complaint be *sua sponte* dismissed with prejudice for failure to state a claim unless, within 30 days of the issuance of a Decision and Order adopting the Report-Recommendation (if Plaintiff indicates a desire to do so with the 14-day time period in which to file objections) she files an Amended Complaint asserting actionable

claims under Title VII of the Civil Rights Act (against her employer) and 42 U.S.C. § 1983 (against any named Defendant in his or her individual capacity). (Dkt. No. 8.) Plaintiff has not filed an Objection to the Report-Recommendation, and the deadline by which to do so has expired. (*See generally* Docket Sheet.) Instead, she has indicated a desire to file an Amended Complaint. (Dkt. No. 9.)

After carefully reviewing the relevant papers herein, including Magistrate Judge Baxter's thorough Report-Recommendation, the Court can find no clear-error in the Report-Recommendation.¹ Magistrate Judge Baxter employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein.

The only change the Court sees fit to make to Magistrate Judge Baxter's well-reasoned recommendations is to grant Plaintiff a 45-day extension, rather than a 30-day extension, given her request for time to seek assistance in preparing that Amended Complaint. (Dkt. No. 9.) On the subject of assistance, the Court respectfully refers Plaintiff to the District's website, which contains links to both the District's form complaints and information about the NDNY Federal Court Bar Association's *Pro Se* Assistance Program.

ACCORDINGLY, it is

ORDERED that Magistrate Judge Baxter's Report-Recommendation (Dkt. No. 8) is

¹ When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a "clear error" review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*; *see also Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks omitted).

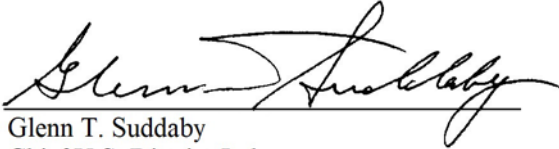
ACCEPTED and **ADOPTED** in its entirety; and it is further

ORDERED that Plaintiff's Complaint (Dkt. No. 1) is *sua sponte* **DISMISSED** with **prejudice** for failure to state a claim to the extent that it sues Defendants for damages under 42 U.S.C. § 1983; and it is further

ORDERED that the remainder of Plaintiff's Complaint (Dkt. No. 1) **shall be** *sua sponte* **DISMISSED** with **prejudice** for failure to state a claim without further Order of this Court **unless**, within **forty-five (45) days** of the issuance of this Decision and Order, she files an Amended Complaint asserting actionable claims under Title VII of the Civil Rights Act (against her employer) and 42 U.S.C. § 1983 (against any named Defendant in his or her individual capacity); and it is further

ORDERED that any such Amended Complaint shall be forwarded to Magistrate Judge Baxter for his review.

Dated: October 15, 2020
Syracuse, New York


Glenn T. Suddaby
Chief U.S. District Judge